

██████████ was audited and assessed additional tax as depicted above and timely protested the assessment on ██████████, 2015 without a supporting statement. After two requests from the DOR, ██████████ provided a statement and a copy of a customer's resale permit and no other documentation to support its protest. DOR repeated its request for supporting documentation in letters dated ██████████, 2016, ██████████, 2016, and finally, ██████████, 2016.

██████████ has failed to provide any documentation or any persuasive documentation that would warrant reductions. The DOR's assessments are presumed valid and correct, with the burden resting upon the taxpayer, in this case ██████████, to prove otherwise. Hahn v. Allphin, 282 S.W.2d 824 (Ky. 1955). Furthermore, its gross receipts are presumed to be taxable and the burden of proof rests upon ██████████ to prove that an exemption applies and all applicable statutory requirements are satisfied. Epsilon Trading Co., Inc. v. Revenue Cabinet, 775 S.W.2d 037 (Ky. App. 1989); KRS 139.260.

██████████ has not met its burden of proof in this matter. For example, a portion of the assessments is attributable to the Department's disallowance of deductions ██████████ took on its sales and use tax returns for sales it contends were made for resale. It has failed to provide properly completed resale certificates or other information that would establish that these deductions were proper. With respect to these and other transactions for which tax remains assessed, ██████████ has not provided any information that would warrant setting aside the assessment of tax for that transaction or the information it has provided is incomplete or unpersuasive.

██████████ has been assessed amnesty fees pursuant to the Kentucky Tax Amnesty Act, KRS 131.400 to 445. Pursuant to KRS 131.440(1)(b)1.b., taxes assessed and collected after the amnesty period (i.e., October 1 through November 30, 2012) for taxable periods ending or transactions occurring prior to October 1, 2011, shall be charged a cost of collection fee of 25% at the time of the assessment. As the above schedule shows, the taxes to which these fees apply were assessed for periods ending or transactions occurring prior to October 1, 2011.

As indicated above, a penalty has been assessed pursuant to KRS 131.180(2) because of ██████████'s failure to have timely paid at least 75% of the tax determined to be due by the DOR. ██████████ has provided nothing that would indicate that this penalty was erroneously applied or that it should be waived or abated.

Therefore, the outstanding sales and use tax assessment totaling \$ ██████████ (plus applicable penalty and interest) is deemed the legitimate liability of ██████████, LLC, due to the Commonwealth of Kentucky.

This letter is the final ruling of the Department of Revenue.

APPEAL

You may appeal this final ruling to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.110, KRS 131.340-131.365, 103 KAR 1:010 and 802 KAR 1:010. If you decide to appeal this final ruling, your petition of appeal must be filed at the principal office of the Kentucky Board of Tax Appeals, 128 Brighton Park Boulevard, Frankfort, KY 40601-3714, within thirty (30) days from the date of this final ruling. The rules of the Kentucky Board of Tax Appeals, which are set forth in 802 KAR 1:010, require that the petition of appeal must:

1. Be filed in quintuplicate;
2. Contain a brief statement of the law and facts in issue;
3. Contain the petitioner's or appellant's position as to the law and facts; and
4. Include a copy of this final ruling with each copy of the petition of appeal.

The petition of appeal must be in writing and signed by the petitioner or appellant. Filings by facsimile or other electronic means shall not be accepted.

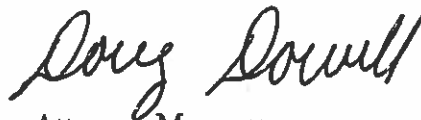
Proceedings before the Kentucky Board of Tax Appeals are conducted in accordance with 103 KAR 1:010, 802 KAR 1:010 and KRS 131.340-131.365 and KRS Chapter 13B. Formal hearings are held by the Board concerning the tax appeals before it, with all testimony and proceedings officially reported. Legal representation of parties to appeal before the Board is governed by the following rules set forth in Section 3 of 802 KAR 1:010:

1. An individual may represent himself in any proceedings before the Board where his individual tax liability is at issue or he may obtain an attorney to represent him in those proceedings;
2. An individual who is not an attorney may not represent any other individual or legal entity in any proceedings before the Board;
3. In accordance with Supreme Court Rule 3.020, if the appealing party is a corporation, trust, estate, partnership, joint venture, LLC, or any other artificial legal entity, the entity must be represented by an attorney on all matters before the Board, including the filing of the petition of appeal. If the petition of appeal is filed by a non-attorney representative for the legal entity. The appeal will be dismissed by the Board; and
4. An attorney who is not licensed to practice in Kentucky may practice before the Board only if complies with Rule 3.030(2) of the rules of the Kentucky Supreme Court.

You will be notified by the Clerk of the Board of the date and time set for any hearing.

Sincerely,

DEPARTMENT OF REVENUE

A handwritten signature in black ink, appearing to read "Doug Downall".

Attorney Manager
Office of Legal Services for Revenue

CERTIFIED MAIL
RETURN RECEIPT REQUESTED